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10/748,723	12/30/2003	Christopher Robert Dale Wilson	07942.0005.CPUS03	7524
48490	7590	02/08/2007	EXAMINER	
MICHAEL K. LINDSEY GAVRILOVICH, DODD & LINDSEY, LLP 3303 N. SHOWDOWN PL. TUCSON, AZ 85749			NGUYEN, QUANG N	
			ART UNIT	PAPER NUMBER
			2141	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/748,723	WILSON ET AL.	
	Examiner	Art Unit	
	Quang N. Nguyen	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 May 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-28,39,40,42-55 and 57-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 24-28,39,40 and 42-55 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 57-64 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 December 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date see attachments.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Detailed Action

1. This Office Action is responsive to the Amendment filed on 05/16/2006. Claims 1-23, 29-38, 41 and 56 have been cancelled. Claims 24, 39, 45 and 51 have been amended. Claims 57-64 have been added as new claims. Claims 24-28, 39-40, 42-55 and 57-64 remain pending for examination.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 12/13/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Election/Restrictions

3. Newly submitted claims 57-64 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The original invention claimed in claims 24-28, 39-40 and 42-55 contains claims directed to a method of messaging between a wireless mobile terminal operating on a wireless carrier network and a networked computer on a landline network.

The invention claimed in newly added claims 57-64 contains claims directed to a system for inter-carrier push-to-talk messaging between wireless mobile terminals operating on a plurality of wireless carrier networks using a plurality of predetermined

transfer protocols and one or more networked computers operatively connected to a landline network.

The inventions are distinct, each from each other because of the following reasons: (a) the additional attributes present in the newly added claims 57-64 (such as ***inter-carrier push-to-talk messaging between wireless mobile terminals operating on a plurality of wireless carrier networks using a plurality of predetermined transfer protocols***) would not be an obvious variation of attributes present in the original claims 24-28, 39-40 and 42-55 to one of ordinary skill in the art and (b) the search required for one Group is not required for the other Group.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 57-64 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

4. Claim 50 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim 45. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

In this case, dependent claim 50 is exactly the same as one of the limitations of the parent claim 45.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 24-28 and 45-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Koskelainen et al. (US 2004/0224710 A1), hereinafter “Koskelainen”.**

7. As to claim 24, **Koskelainen** teaches a method comprising:

starting a client on a device selected from the group consisting of the wireless mobile terminal and the networked computer (*i.e., starting a client on PTT client 102 from the group consisting of PTT clients 102, 104, 106 and networked computer PTT client 112 as illustrated in Fig. 1*);

the client sending a login message to a server located outside of the wireless carrier network, the server communicating with the client by way of a packet network (*i.e., a service request including parameters identifying the address “URL” of the PTT application server, the identity of the client and a service command is generated and*

transmitted from the PTT client 102 to the PTT application server 116 located outside the wireless carrier network 108 via the PTT server 110 as illustrated in Fig. 1);

the server establishing a communication session with the client in response to receiving the login message (i.e., in response to receiving the service request for accessing a voicemail from a PTT client, the PTT application server 410 may simply initiate a one-to-one speech session and play the voicemail) (Koskelainen, paragraph [0046]);

at the device, selecting one or more recipients for a message, the recipients including the other device from the group consisting of the wireless mobile terminal and the networked computer (i.e., a PTT client user interface is provided to identify and select services such as the user's selectable options in Fig. 5A include an individual 502 "Bill" and a talk group 504 "Project Team") (Koskelainen, paragraphs [0049-0050]);

sending the message to the server by way of the packet network using a push-to-talk function provided by the client (i.e., at that point, the user can simply press a button to engage in real-time communication with the selected recipient "Bill") (Koskelainen, paragraph [0050]); and

the server selectively forwarding the message to the recipients that are available (i.e., the requested service is performed at the PTT application server and the result is transmitted to the PTT client identified in the request via the PTT server) (Koskelainen, paragraph [0009]) and storing the message for later delivery to unavailable recipients, based on the respective availability of each of the recipients (i.e., the support services may also initially collect information such as a voicemail from a first PTT client for a subsequent retrieval by another PTT client) (Koskelainen, paragraph [0026]).

8. As to claim 25, **Koskelainen** teaches the method of claim 24, wherein the message is selected from the group consisting of a voice message, a text message, and a combination of the foregoing (*Koskelainen teaches today, electronic devices such as mobile phones, PDAs and the like, are capable of communicating voice, data, images, video and other multimedia content*) (**Koskelainen**, paragraph [0002]).

9. As to claim 26, **Koskelainen** teaches the method of claim 24, further comprising the server forwarding the message to an email server (i.e., *the PTT application server can provide any number of different of services, for example and not of limitation, such services may include voicemail, text message retrieval, i.e., email service, chat history retrieval, and the like*) (**Koskelainen**, paragraph [0046]).

10. As to claim 27, **Koskelainen** teaches the method of claim 24, further comprising the server forwarding the message to an external instant messaging (IM) service (*besides HTTP and SOAP, another representative message protocol that may be used by a PTT client 210 to access a PTT application server 202 service such as IM service via PTT server 206 as illustrated in Fig. 2*) (**Koskelainen**, paragraphs [0033-0035]).

11. As to claim 28, **Koskelainen** teaches the method of claim 24, wherein the message includes streaming voice (*Koskelainen teaches today, electronic devices such as mobile phones, PDAs and the like, are capable of communicating voice, data, images, video and other multimedia content, wherein streaming voice is a form of multimedia content*) (**Koskelainen**, paragraph [0002]).

12. As to claim 45, **Koskelainen** teaches a wireless mobile terminal (as *illustrated in Fig. 9*) for operating on a wireless network, comprising:

a memory for storing program code (i.e., *program storage/memory 904*) (**Koskelainen, Fig. 9 and paragraph [0062]**);

a processor, operatively coupled to the memory, for executing the program code (i.e., *a processing/control unit 902*) (**Koskelainen, Fig. 9 and paragraph [0061]**);

program code stored in the memory for establishing a communication session with a server capable of forwarding messages to a networked computer located on a wired network by way of a packet network (i.e., *the storage/memory 904 stores the various PTT client programs and data used to create and transmit messages to provide service requests to the PTT application server*) (**Koskelainen, paragraph [0065]**);

program code stored in the memory for recording a voice message (i.e., *application modules 934, 936 and/or the service module 932 can be used to support services such as games, player chat, voicemail, etc.*) (**Koskelainen, paragraph [0066]**);

program code stored in the memory for accessing a list of message recipients stored at the server (i.e., *the storage/memory 904 stores the various PTT client programs and data used to access a PTT application server such as using SIP for instant messaging (IM), wherein a list of on-line users registered at the IM server is accessed/selected by the PTT client for initiating a communication session*) (**Koskelainen, Fig. 5A and paragraphs [0034-0035] and [0065]**);

program code stored in the memory for presenting the user interface for selecting one or more message recipients from the list stored at the server, the message recipients including the networked computer (i.e., *the user interface 906 including the display 908 may display the text, graphics, icons, etc., that may be used by the user in entering/selecting PTT individual and group recipients as illustrated in Fig. 5A*) (**Koskelainen, paragraphs [0050] and [0063]**); and

program code stored in the memory for sending the voice message as streaming voice to the server for delivery to the message recipients (i.e., *a service module 932, part of the PTT client module 930 may be used to create and transmits messages to provide service requests to the PTT application server by way of the PTT server*) (**Koskelainen, paragraph [0065]**).

13. As to claim 46, **Koskelainen** teaches the wireless mobile terminal of claim 45, further comprising:

program code stored in the memory for presenting a user interface for composing a text message (i.e., *a keypad 910*) (**Koskelainen, Fig. 9 and paragraph [0063]**); and

program code stored in the memory for sending the text message to the server for delivery to the message recipients (i.e., *a service module 932, part of the PTT client module 930 may be used to create and transmits messages to provide service requests to the PTT application server by way of the PTT server*) (**Koskelainen, paragraph [0065]**).

14. As to claim 47, **Koskelainen** teaches the wireless mobile terminal of claim 45, further comprising program code stored in the memory for allowing a user to send the voice message using a push-to-talk mode (*i.e., the keypad 910 may also include a “talk” button designated for PTT activity*) (**Koskelainen**, paragraphs [0063-0064]).

15. As to claim 48, **Koskelainen** teaches the wireless mobile terminal of claim 45, further comprising a speaker and program code stored in the memory for playing voice messages received from the server on the speaker (*i.e., the speaker 912 represents at least a loud-speaker used for PTT activity, and also the speaker that may be used in connection with standard cellular communications*) (**Koskelainen**, paragraph [0063]).

16. As to claim 49, **Koskelainen** teaches the wireless mobile terminal of claim 45, further comprising a display and program code stored in the memory for displaying text messages received from the server on the display (*i.e., the display 908 may display, among other things, the text, graphics, icons from services such as email, instant messaging, player chat, etc.*) (**Koskelainen**, paragraph [0063]).

17. As to claim 50, **Koskelainen** teaches the wireless mobile terminal of claim 45, further comprising program code stored in the memory for accessing a list of message recipients stored at the server (*i.e., the storage/memory 904 stores the various PTT client programs and data such as using SIP for access instant messaging (IM), wherein a list of on-line users registered at the IM server is accessed/selected by the PTT client for initiating a communication session*) (**Koskelainen**, paragraphs [0034-0035]).

18. Claims 51-55 recite networked device (*i.e.*, *PTT client 112*) claims that contain similar limitations as wireless mobile terminal (*i.e.*, *PTT clients 102, 104, 106*) claims 45-49; therefore, they are rejected under the same rationale.

19. Claims 39-40 and 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee (US 2004/0015548 A1).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

20. As to claim 39, **Lee** teaches a computer program product stored on a computer-readable medium for permitting messaging between a wireless mobile terminal operating on a wireless carrier network and a networked computer on a landline packet network, comprising:

program code means for establishing a communication session with a server for communicating with the wireless mobile terminal and networked computer by way of a packet network, the communication session involving the transfer of voice and text messages between the wireless mobile terminal and the networked computer (**Lee**, paragraphs [0032-0033] and [0068]);

program code means for presenting a user interface for composing a text message (**Lee, Fig. 14 and paragraphs [0009] and [0066]**);

program code means for presenting a user interface for selecting one or more message recipients to receive messages during the communication session, the message recipients including the wireless mobile terminal and the network computer (**Lee, Fig. 10 and paragraph [0059]**);

program code means for allowing a user to record and send a voice message to the message recipients via the server using a push-to-talk mode (**Lee, Fig. 12, paragraph [0064]**);

program code means for allowing the user to send the text message to the message recipients via the server using instant messaging (**Lee, Fig. 14 and paragraphs [0009] and [0066]**); and

program code means for displaying at the wireless mobile terminal and the networked computer the text message and an indicia of the voice message in a single displayed conversation thread (**Lee, Fig. 11 and paragraph [0055]**).

21. As to claim 40, **Lee** teaches the computer program product of claim 39, further comprising program code means for sending the voice message as streaming voice (**Lee, Fig. 12, paragraph [0064]**).

22. As to claim 42, **Lee** teaches the computer program product of claim 39, further comprising program code means for playing voice messages received from the server (**Lee, paragraph [0033]**).

23. As to claim 43, **Lee** teaches the computer program product of claim 39, further comprising program code means for displaying text messages received from the server (**Lee, paragraph [0033]**).

24. As to claim 44, **Lee** teaches the computer program product of claim 39, further comprising program code means for accessing a list of message recipients stored at the server (**Lee, paragraphs [0034] and [0040]**).

Conclusion

25. Applicant's arguments as well as request for reconsideration filed on 05/16/2006 have been fully considered but they are moot in view of the new ground(s) of rejection.

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Quang N. Nguyen
Patent Examiner
AU – 2141

KENNETH R. COULTER
PRIMARY EXAMINER
